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10/527,830

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Toshimitsu Nakashima

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4578

30678

7590

10/14/2010

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EXAMINER

PROUTY, REBECCA E

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Applicants argue that the 103 rejection should be withdrawn as Naylor teach that if the aliphatic acid contains an even number of carbon atoms and is the sole carbon source, the product is substantially or wholly polyhydroxy-butyrate (PHH) homopolymer, and if polyhydroxybutyrate-valerate copolymer (PHBV) is required, there should be present a carbon source such as propionic acid. Naylor does not describe that a copolyester can be produced without adding other carbon sources such as propionic acid. However, applicants are improperly extending the teaching of Naylor to the production of all copolyesters instead of just a polyhydroxybutyrate-valerate copolymer and the disclosure of Satoshi makes it clear that a polyhydroxybutyrate-hexanoate copolymer can be produced by fermentation of a culture with only a natural oil or fat (or a mixture of two or more natural oils or fats) as the sole carbon source. Thus a skilled artisan would not find it necessary to use propionic acid as stated by applicants.

Applicants argue that the mere fact that the cited art may be modified in the manner suggested does not make it obvious. The examiner agrees with applicants statement. However, the rejection did not merely provide evidence that the cited art could be modified as suggested but in fact presented a clearly defined reason (i.e., avoidance of toxicity) as to why a skilled

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artisan would have in fact made the suggested modification. As such the rejection is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rebecca E. Prouty whose telephone number is 571-272-0937. The examiner can normally be reached on Tuesday-Friday from 8 AM to 5 PM. The examiner can also be reached on alternate Mondays

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Mondesi, can be reached at (571) 272-0956. The fax phone number for this Group is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rebecca Prouty/  
Primary Examiner  
Art Unit 1652